

### REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-40 are pending in the present application. Claims 1, 8, 20, 39 and 40 are amended by the present amendment.

In the outstanding Office Action, Claims 1-8, 10-13, 15-17, 19-27, 29-32, 34, 35 and 37-40 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,991,739 to Cupps et al. (herein "Cupps"); Claims 9 and 28 were rejected under 35 U.S.C. § 103(a) as unpatentable over Cupps; and Claims 14, 18, 33 and 36 were rejected under 35 U.S.C. § 103(a) as unpatentable over Cupps in view of U.S. Patent No. 6,064,980 to Jacobi et al. (herein "Jacobi").

Applicants respectfully traverse the rejection of Claims 1-8, 10-13, 15-17, 19-27, 29-32, 34, 35 and 37-40 under 35 U.S.C. § 102(b) as anticipated by Cupps.

Amended Claim 1 is directed to a purchase promotion server system that includes, *inter alia*, a user information database, a user state judgement unit configured to judge a user state regarding whether the user is fit to purchase goods or services, a user information management unit configured to recognize an information communication terminal presently used by the user corresponding to the electronic goods information, and a user notification unit. The user notification unit is configured to send a message urging or reminding the user to purchase goods or services to the recognized information communication terminal via a network according to the user state judged by the user state judgement unit. Amended Claims 20, 39 and 40 include similar features.

Thus, in a system according to the present invention, an information communication terminal presently used by a user is recognized so that the purchase promotion server system may send a message that reminds the user of purchasing or urging the user to purchase his or

her wish list items even while the location of the user changes. For example, when a user of the claimed invention walks on a street near a convenience store, a message such as "You can buy goods listed on your shopping list at a nearby convenience store," may advantageously be sent to the user's cellular phone.<sup>1</sup>

On the contrary, it is less useful to send a message such as "Buy flowers now!! It's your wife's birthday today!" to the home PC of a user, if the message appears on the user's home PC while the user is walking on a street near the florist shop. However, that less useful message might be sent using the Internet online order method or apparatus described by Cupps, because the method of Cupps lacks a function of recognizing the transmission medium or communication terminal presently used by a user.

Applicants respectfully submit that Cupps does not teach or suggest recognizing a communication terminal used by a user. Cupps describes that a customer can receive a message indicating the status or expected delivery time of an order by an email message or other communication medium.<sup>2</sup> However, Cupps does not disclose recognizing what type of transmission medium or communication terminal is available to the customer when sending the message. Further, although Cupps describes that a vendor is notified of directions to the customer's location by a telephone call, email message, and the like, but Cupps does not disclose a recognition of what type of communication medium or communication terminal is available to the vendor or customer at the time of notification. Therefore, Applicants respectfully submit that Cupps does not teach or suggest "a user information management unit configured to recognize an information communication terminal presently used by the user," as recited in the independent claims.

In addition, Applicants respectfully submit that Cupps appears to place no weight on the recognition of the communication medium available to a user or a vendor at the time of

---

<sup>1</sup> Specification at page 24, line 27, to page 30, line 24.

<sup>2</sup> Cupps at column 11, lines 20-34.

sending a message because that recognition is not useful in the Internet online order method and apparatus described in Cupps. According to Cupps, once a communication medium is registered in advance, for example, at the time of placing an order, a notification message as described above is just generated in accordance with a "prescribed" format and the user or the vendor have to use the pre-registered medium.<sup>3</sup> In addition, the Internet online order method or apparatus of Cupps is not based on the premise that a customer or a vendor moves around, and therefore does not recognize that the customer or vendor may have to change communication media or change a communication terminal. Moreover, in the method and apparatus of Cupps, a customer does not have to be reminded of taking any particular actions about an order once he or she places the order. Thus, Applicants respectfully submit that Cupps does not suggest anything that would have lead a person skilled in the art at the time of the present invention to modify Cupps in such a way as to reach the claimed invention.

Accordingly, Applicants respectfully submit that independent Claims 1, 20, 39 and 40, and claims depending therefrom, patentably define over Cupps.

In addition, Applicants respectfully traverse the rejections of Claims 9, 14, 18, 28, 33 and 36 under 35 U.S.C. § 103(a) as unpatentable over Cupps or as unpatentable over Cupps in view of Jacobi.

Claims 9, 14, 18, 28, 33 and 36 depend from Claims 1 and 20, which are believed to patentably define over Cupps, as discussed above. Further, Applicants respectfully submit that Jacobi also does not teach or suggest the features of the independent claims. Hence, Applicants respectfully request those rejections be withdrawn.

Accordingly, Applicants respectfully submit that independent Claims 1, 20, 39 and 40, and claims depending therefrom, are allowable.

---

<sup>3</sup> Cupps at column 10, lines 21-25.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

EHK:ZSS:dnf

I:\ATTY\ZS\21\5\2111\211371US\211371 AMENDMENT 032405.DOC